



To the Honorable Council
City of Norfolk, Virginia


April 12, 2016

From: George M. Homewood, FAICP, CFM, Planning Director

Subject: **Special Exceptions to operate an Eating and Drinking Establishment and a Commercial Recreation Center (arcade video game room) at 4012 Colley Avenue – The Dirty Buffalo**

Reviewed: 
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/7

Approved: 
Marcus D. Jones, City Manager

Item Number:

R-7

- I. **Staff Recommendation:** Approval of both requests.
- II. **Commission Action:** By a vote of **7 to 0**, the Planning Commission recommends **Approval** of both requests.
- III. **Request:** Special Exceptions to operate an Eating and Drinking Establishment and a Commercial Recreation Center (arcade video game room).
- IV. **Applicant:** The Dirty Buffalo
- V. **Description:**
 - The site is located on the southeast corner of Colley Avenue and West 41st Street between the Highland Park and Colonial Place neighborhoods.
 - Granting this request will allow The Dirty Buffalo, an existing restaurant with alcohol, to relocate to this site, which was most recently occupied by Pancho-N-Luigi's.
 - The Dirty Buffalo is currently located at 4110 Colley Avenue.
 - This request would also allow The Dirty Buffalo to provide a game room with twelve stand-up arcade game machines within the restaurant.
 - A special exception for a commercial recreation center is required anytime an establishment proposes to have more than four games of recreation or amusement, including video games.
 - The restaurant proposes to have a game room with twelve stand-up arcade game machines.
- VI. **Historic Resources Impacts:**
 - The site is not located within a federal, state, or local historic district.
 - Since the structure on the site is at least 50 years old, the site could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

VII. Public Schools Impacts:

This site is located within the Larchmont Elementary School, Blair Middle School, and Maury High School Attendance Zones.

	Previous (Pancho-N-Luigi's)	Proposed (The Dirty Buffalo)
Hours of Operation and hours for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same (no entertainment)
Capacity	132 seats indoors 36 seats outdoors 214 total capacity	140 seats indoors 14 seats outdoors 184 total capacity

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated March 24, 2016 with attachments
- Proponents and Opponents
- Ordinances
- Letter of support – Highland Park Civic League

Planning Commission Public Hearing: March 24, 2016

bo Executive Secretary: George M. Homewood, AICP, CFM *2 MNUH*
 Planner: Matthew Simons, AICP, CZA, CFM *M.S.*

Staff Report	Item No. 14	
Address	4012 Colley Avenue	
Applicant	The Dirty Buffalo	
Requests	Special Exceptions	a. Eating and drinking establishment b. Commercial recreation center
Property Owner	James M. Boyce	
Site Characteristics	Site/Building Area	23,000 sq. ft./5,392 sq. ft.
	Future Land Use Map	Commercial
	Zoning	C-2 (Corridor Commercial)
	Neighborhood	Highland Park/Colonial Place
	Character District	Traditional
Surrounding Area	North	C-2: Wing Soon Oriental Restaurant
	East	R-8 (Single-Family): single-family homes
	South	C-2: Bernstein's Gallery art supplies
	West	C-2: Vacant land



A. Summary of Request

- The site is located on the southeast corner of Colley Avenue and West 41st Street between the Highland Park and Colonial Place neighborhoods.
- Granting this request will allow The Dirty Buffalo, an existing restaurant with alcohol, to relocate to this site, which was most recently occupied by Pancho-N-Luigi's.
 - The Dirty Buffalo is currently located at 4110 Colley Avenue.
- This request would also allow The Dirty Buffalo to provide a game room with twelve stand-up arcade game machines within the restaurant.

B. Plan Consistency

- The proposed special exceptions are consistent with *plaNorfolk2030*, which designates this site as commercial.
- The *Central Hampton Boulevard Area Plan* identifies this site as a location for office, research, retail, or multi-unit residential.
 - The plan calls for parking lot areas to be screened from the street with fencing or plantings of up to four feet in height and for street trees or landscaping to be installed between the street edge and the sidewalk.
- In order to be fully consistent with *plaNorfolk2030*, a condition will be added to the special exception requiring the installation and maintenance of a planting strip with a fence, wall, or hedge along the rear edge of the sidewalk fronting Colley Avenue to properly screen the parking areas.
 - The applicant has provided a site plan that meets this condition and it will be a requirement of the proposed special exception to install and maintain the landscaping shown on the site plan prior to the issuance of any business license.

C. Zoning Analysis

i. General

- The uses are permitted in the C-2 district by special exception.

	Previous (Pancho-N-Luigi's)	Proposed (The Dirty Buffalo)
Hours of Operation and hours for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same (no entertainment)
Capacity	132 seats indoors 36 seats outdoors 214 total capacity	140 seats indoors 14 seats outdoors 184 total capacity

- Special exception history:

City Council Approval	Applicant	Request
1999	Meridee Mullaney	Initial application for an entertainment establishment
2001	Enrico's Restaurante	New eating and drinking establishment
2002	Enrico's Restaurante	Amendment to add entertainment
2011	Phoenix Bar and Grill	New Entertainment establishment
2014	Pancho-N-Luigi's	New entertainment establishment
Pending	The Dirty Buffalo	New establishment: a. Eating and drinking b. Commercial recreation center

- A special exception for a commercial recreation center is required anytime an establishment proposes to have more than four games of recreation or amusement, including video games.
 - The restaurant proposes to have a game room with twelve stand-up arcade game machines.

ii. Parking

- The site is located in the Traditional Character District which requires one parking space per 175 square feet of building area.
 - 31 parking spaces are required and 31 are provided on site.
 - In order to meet the bike parking requirements for a commercial space of this size, a bike rack will be required to be installed on the site, sufficient to accommodate at least four bicycles.

iii. Flood Zone

- The property is located in the X (Shaded) and AE flood zones, which are moderate and high-risk flood zones.
 - The building is located completely outside the AE high-risk flood zone; flood mitigation will not be required when improvements are made to the building.

D. **Transportation Impacts**

- Institute of Transportation Engineers figures estimate that this restaurant will generate 39 additional vehicle trips per day by increasing total indoor seating at this location by 8 seats above currently approved levels.
- Colley Avenue near the site is not identified as a severely congested corridor in either the AM or PM peak hours in the current update to regional Hampton Roads Congestion Management analysis.

- The site is near transit services with Hampton Roads Transit bus route 4 (Church) operating on 38th Street near the site.
- Colley Avenue adjacent to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.
 - A priority shared lane is proposed in the Plan.

E. Historic Resources Impacts

- The site is not located within a federal, state, or local historic district.
 - Since the structure on the site is at least 50 years old, the site could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

F. Public Schools Impacts

This site is located within the Larchmont Elementary School, Blair Middle School, and Maury High School Attendance Zones.

G. Environmental Impacts

- The previous operator, Pancho-N-Luigi's, made significant site/landscape improvements through the special exception process.
 - The site will be required to maintain the site improvements, which include replacing/maintaining the landscaping.
 - The wooden enclosure is nonconforming to current Zoning requirements and has continued to fall into disrepair.
 - A masonry dumpster enclosure will be required to surround the dumpster in the rear parking lot.
- By requiring the uses to conform to the conditions listed below, the proposed restaurant should not have a negative effect on the surrounding area.

H. Surrounding Area/Site Impacts

- Over the past year there have been six calls for police service with one arrest made.
 - The arrest concerned the service of a warrant.
- Since the outdoor dining will be located on the west side of the building facing Colley Avenue, the outdoor dining will not have any direct residential exposure.
- A condition will be included which limits the hours of any amplified sound to no later than 11:00 p.m. Sunday through Thursday, and 12:00 midnight on Friday and Saturday.
 - This condition was originally added to a previously approved special exception for an Entertainment Establishment at this location, in response to neighborhood concerns that were stated at the time.

I. Payment of Taxes

The owner of the property is current on all real estate taxes.

J. Civic League

- Notice was sent to the Highland Park and Colonial Place/Riverview Civic Leagues on February 10.
- A letter of support was received from the Highland Park Civic League on March 11.

K. Communication Outreach/Notification

- Legal notice was posted on the property on February 16.
- Letters were mailed to all property owners within 300 feet of the property on March 11.
- Legal notification was placed in *The Virginian-Pilot* on March 10 and March 17.

L. Recommendation

Staff recommends **approval** of both special exception requests subject to the conditions shown below:

Eating and Drinking Establishment conditions

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be from 11:00 a.m. until 2:00 a.m., seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the establishment shall not exceed 140 seats indoors, 14 seats outdoors, and the total occupant capacity, including employees, shall not exceed 184 people. The use authorized by this special exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.
- (c) No amplified sound shall be permitted in any outdoor area, including the outdoor dining area, after 11:00 p.m. Sunday through Thursday nor after 12:00 midnight on Friday and Saturday.
- (d) The site shall be improved and maintained to meet all the criteria, including landscaping, identified in the attached site plan by Robyn Thomas Architecture, dated February 2, 2016, set forth in "Exhibit C," and attached hereto. The landscaping shall be maintained in accordance with the approved Central Hampton Boulevard Area Plan, to include plantings that form a continuous hedge along the rear edge of the sidewalk along Colley Avenue no less than three (3) feet and no greater than four (4) feet in height, and street trees within the landscape verge between the sidewalk and curb along Colley Avenue.

- (e) A dumpster enclosure shall be installed to surround the dumpster on the site. The dumpster enclosure shall consist of masonry walls that complement the existing building, and the enclosure shall be gated, sufficient to screen the visibility of the dumpster from any public right-of-way.
- (f) A bicycle facility or rack, sufficient to accommodate at least four bicycles, shall be installed on the site in accordance with the requirements set forth in section 15-6 "Bicycle parking," of the *Zoning Ordinance of the City of Norfolk*, 1992, as amended.
- (g) No tree shall be removed from or installed in the public right-of-way without first securing a permit issued by the Department of Parks and Urban Forestry.
- (h) A buffer shall be maintained along those portions of the property abutting Mayflower Road in accordance with the requirements of Chapter 17, "Landscape Plantings and Buffers," of the Zoning Ordinance of the City of Norfolk, 1992, as amended.
- (i) No portion of the outdoor dining area shall be enclosed and any covering must leave the dining space open on at least three sides and no portion of the outdoor dining area shall be heated or cooled.
- (j) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (k) The establishment shall maintain a current, active business license at all times while in operation.
- (l) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (m) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

- (n) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, solid waste, snow, ice, and any bodily discharge.
- (o) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (p) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (q) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (r) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (s) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (t) There shall be no entertainment, no dancing, and no dance floor provided.

- (u) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (v) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (w) No business license shall be issued for any business on the property until conditions (d), (e) and (f) above, have been complied with in their entirety.

Commercial Recreation Center conditions

- (a) The hours of operation for the use of the property as a *Recreation Center, Commercial* shall be from 11:00 a.m. until 2:00 a.m., seven days a week.
- (b) There shall be no more than twelve stand-up arcade video games provided and no other games of recreation or amusement shall be provided unless the total number of games of recreation or amusement does not exceed twelve.
- (c) All games of recreation or amusement shall only be located within the game room as indicated on the floor plan attached hereto and marked as "Exhibit A."
- (d) A bicycle facility or rack, sufficient to accommodate at least four bicycles, shall be installed on the site in accordance with the requirements set forth in section 15-6 "Bicycle parking," of the *Zoning Ordinance of the City of Norfolk, 1992*, as amended.
- (e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.
- (f) All landscaping installed on the site premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

- (g) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (h) The property shall be kept in a clean and sanitary condition at all times.
- (i) The establishment shall maintain a current, active business license at all times while in operation.

Attachments

Location Map

Zoning Map

1000' radii map of similar ABC establishments and Norfolk Public Schools

Applications

Notice to the Highland Park and Colonial Place/Riverview Civic Leagues

Letter of support – Highland Park Civic League

Proponents and Opponents

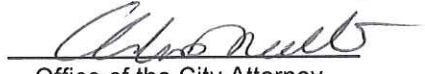
Proponents

Steve Stritzl
717 Kerri Court
Chesapeake, VA 23320

Opponents

None

Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved: 

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT NAMED "THE DIRTY BUFFALO" ON PROPERTY LOCATED AT 4012 COLLEY AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to The Dirty Buffalo Restaurant, LLC authorizing the operation of an eating and drinking establishment named "The Dirty Buffalo" on property located at 4012 Colley Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 125 feet, more or less, along the eastern line of Colley Avenue and 185 feet, more or less, along the southern line of West 41st Street; property also fronts 100 feet, more or less, along the western line of Mayflower Road; premises numbered 4012 Colley Avenue.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the establishment shall not exceed 140 seats indoors, 14 seats outdoors, and the total occupant capacity, including employees, shall not exceed 184 people.
- (c) No amplified sound shall be permitted in any outdoor area, including the outdoor dining area,

after 11:00 p.m. Sunday through Thursday nor after 12:00 midnight on Friday and Saturday.

- (d) The site shall be improved and maintained to meet all the criteria, including landscaping, identified in the attached site plan prepared by Robyn Thomas Architecture, dated February 2, 2016, attached hereto and marked as "Exhibit B," and attached hereto. The landscaping shall be maintained in accordance with the approved Central Hampton Boulevard Area Plan, to include plantings that form a continuous hedge no less than three (3) feet and no greater than four (4) feet in height located along the rear edge of the sidewalk along Colley Avenue, and street trees within the landscape verge between the sidewalk and curb along Colley Avenue.
- (e) All dumpsters shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the proposed building.
- (f) A bicycle facility or rack sufficient to accommodate at least four (4) bicycles shall be installed on the site in accordance with the requirements set forth in section 15-6 of the Zoning Ordinance of the City of Norfolk, 1992, entitled "Bicycle parking."
- (g) No tree shall be removed from or installed in the public right-of-way without first securing a permit issued by the Department of Parks and Urban Forestry.
- (h) A buffer shall be maintained along those portions of the property abutting Mayflower Road in accordance with the requirements of Chapter 17 of the Zoning Ordinance of the City of Norfolk, 1992, entitled "Landscape Plantings and Buffers."
- (i) No portion of the outdoor dining area shall be enclosed and any covering must leave the dining space with open ventilation on at least three sides.
- (j) This special exception shall terminate in the event of a change in ownership of the establishment and

may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

- (k) The establishment shall maintain a current, active business license at all times while in operation.
- (l) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (m) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (n) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, and both solid and liquid waste.
- (o) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (p) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage

the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (q) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (r) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (s) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (t) There shall be no entertainment, no dancing, and no dance floor provided.
- (u) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (v) A copy of this special exception ordinance and

Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause

undue traffic congestion nor draw significant amounts of traffic through residential streets;

- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting an entertainment establishment on this property, and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

Exhibit A (4 pages)

Exhibit B (1 page)



EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

d/b/a The
Dirty
Buffalo

Date 2/4/16

Trade name of business The Dirty Buffalo Restaurant, LLC

Address of business 4012 Colley Ave. (Proposed); 4110 Colley Ave. (Current)

Name(s) of business owner(s)* Russell Gilbert, Stephanie Gilbert, Gary Nowak

Name(s) of property owner(s)* Sharon Simon, Executor of Estate of James Boyce

Daytime telephone number (757) 359-0614

*If business or property owner is partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility	Alcoholic Beverage Sales
Weekday From <u>11 AM</u> To <u>2 AM</u>	Weekday From <u>11 AM</u> To <u>2 AM</u>
Friday From <u>11 AM</u> To <u>2 AM</u>	Friday From <u>11 AM</u> To <u>2 AM</u>
Saturday From <u>11 AM</u> To <u>2 AM</u>	Saturday From <u>11 AM</u> To <u>2 AM</u>
Sunday From <u>11 AM</u> To <u>2 AM</u>	Sunday From <u>11 AM</u> To <u>2 AM</u>

2. Type of ABC license applied for (check all applicable boxes)

☒ On-Premises ☐ Off-Premises (additional application required)

3. Type of alcoholic beverage applied for

☒ Beer ☒ Wine ☒ Mixed Beverage

4. Will indoor or outdoor entertainment be provided?

(Entertainment consists of anything more than one, unamplified musician)

☐ Yes (Different application required) ☒ No

Exhibit A – Page 2
Eating and Drinking Establishment

5. Will video games, pool tables, game boards or other types of games be provided?
☒ Yes (If more than 4, additional application required) ☐ No

5a. If yes, please describe type and number of each game to be provided

Up to 12 video games

6. Will patrons ever be charged to enter the establishment?

☐ Yes ☒ No

6a. If yes, why

- 6b. Which days of the week will there be a cover charge (circle all applicable days)?

Monday Tuesday Wednesday Thursday Friday

Saturday Sunday

7. Will the facility or a portion of the facility be available for private parties?

☒ Yes ☐ No

7a. If yes, explain

Birthdays, corporate events, Social
events

8. Will a third party (promoter) be permitted to lease, let or use the establishment?

☐ Yes ☒ No

8a. If yes, explain

9. Will there ever be a minimum age limit?

☐ Yes ☒ No

Eating and Drinking Establishment

10. Additional comments/ description/operational characteristics or prior experience:

Operating family-friendly restaurant at
2110 Colley Ave. for 4 years

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility


Signature of Applicant

**Exhibit A – Floor Plan(s) Worksheet
Eating and Drinking Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Outdoor seating
 - Total maximum capacity (including employees)

Total capacity

a. Indoor

Number of seats (not including bar seats)

Number of bar seats

Standing room

~~127~~
13
~~200~~ 15

b. Outdoor

Number of seats

14

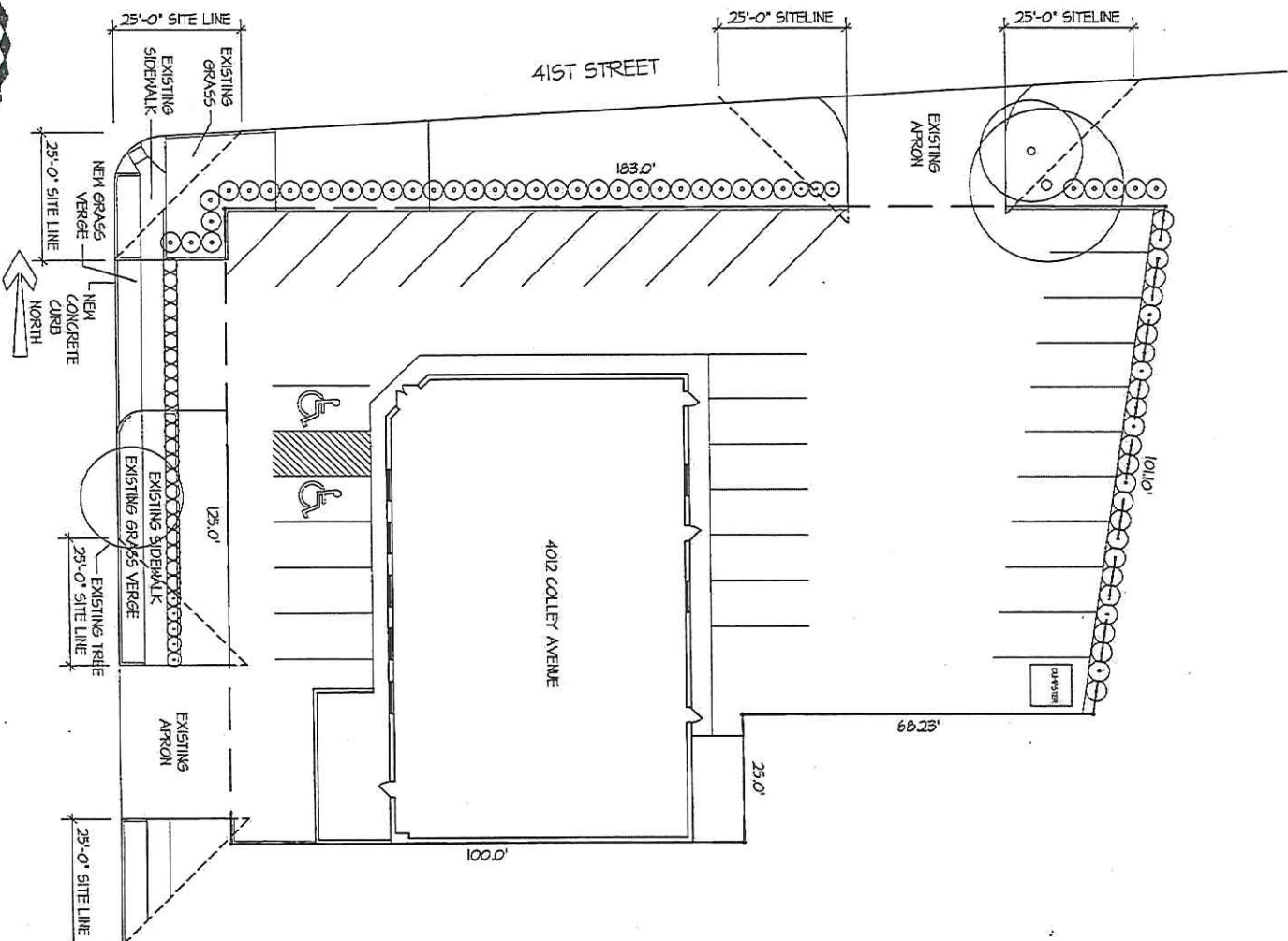
c. Number of employees

15

Total Occupancy

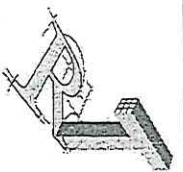
(Indoor/Outdoor seats, standing room and employees) = 184

Exhibit B



ARCHITECTURAL SITE PLAN: 4012 COLLEY AVE, NORFOLK, VA
1" = 30'-0"


COLLEY AVENUE



ROBYN THOMAS
ARCHITECTURE
913 W. 21st Street, Suite C
Norfolk, VA 23517
Ofc: 757.622.7100
Fax: 757.640.1014

03/21/2016 lds

Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved: 

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF A COMMERCIAL RECREATION CENTER KNOWN AS "DIRTY BUFFALO" ON PROPERTY LOCATED AT 4012 COLLEY AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted authorizing the operation of a Commercial Recreation Center known as "Dirty Buffalo" on property located at 4012 Colley Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 125 feet, more or less, along the eastern line of Colley Avenue and 185 feet, more or less, along the southern line of West 41st Street; property also fronts 100 feet, more or less, along the western line of Mayflower Road; premises numbered 4012 Colley Avenue.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the Commercial Recreation Center shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days per week. No use of the facility outside of the hours of operation listed herein shall be permitted.
- (b) There shall be no more than 12 gaming devices. No additional recreational games are permitted.
- (c) All games and game devices shall only be played and located in the game room area indicated on the floor plan attached hereto and marked as "Exhibit A."
- (d) Notwithstanding any other regulations pertaining to

temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992, no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.

- (e) All landscaping installed on the site premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.
- (f) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, and both solid and liquid waste.
- (g) The property shall be kept in a clean and sanitary condition at all times.
- (h) The facility shall maintain a current, active business license at all times while in operation.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

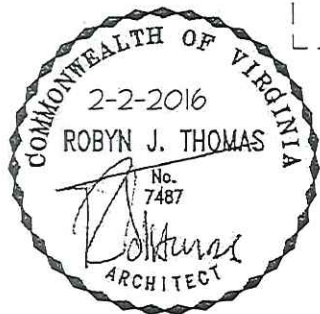
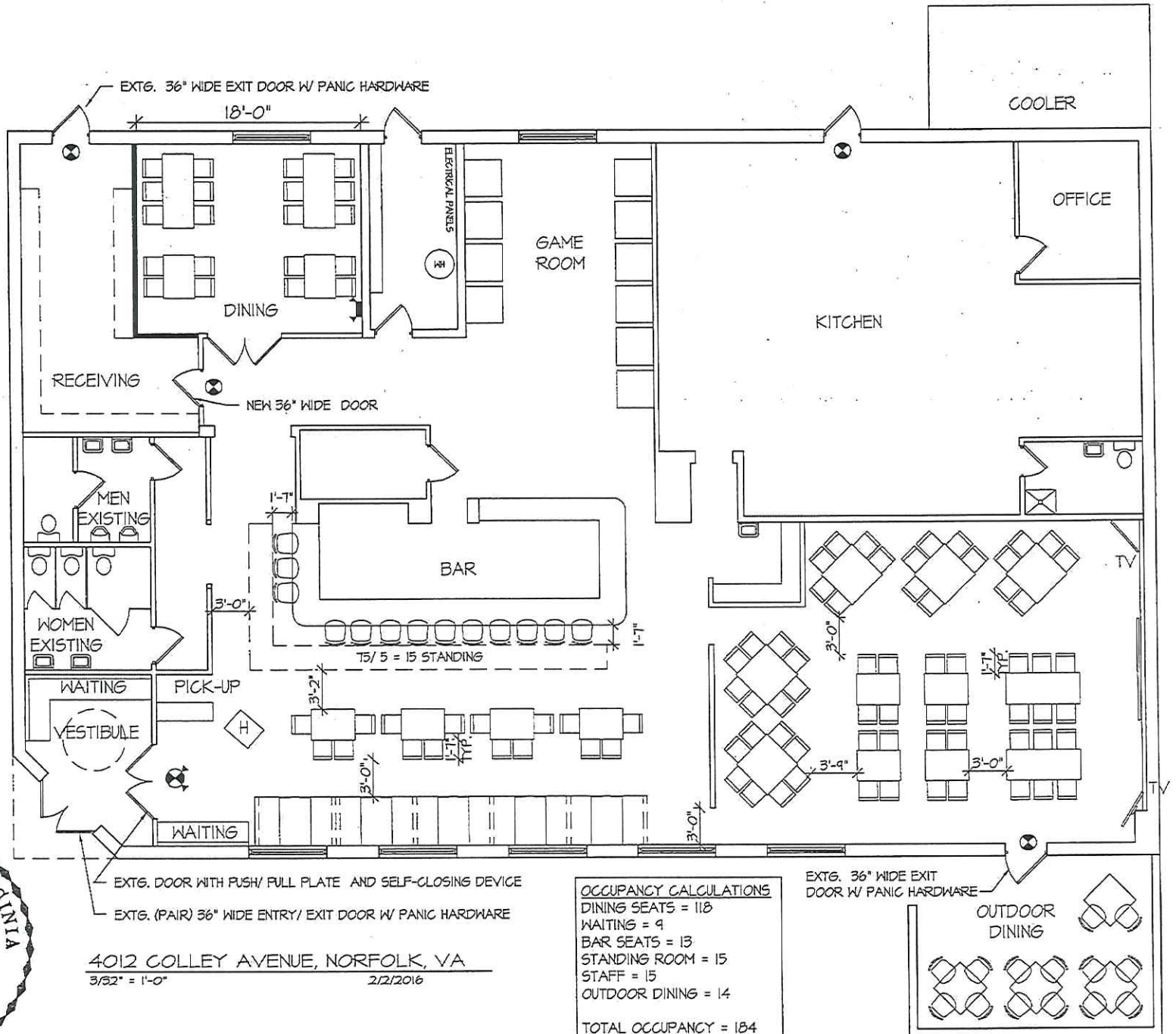
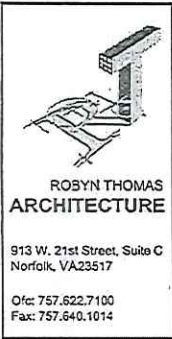
- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to

mitigate potential adverse impacts;

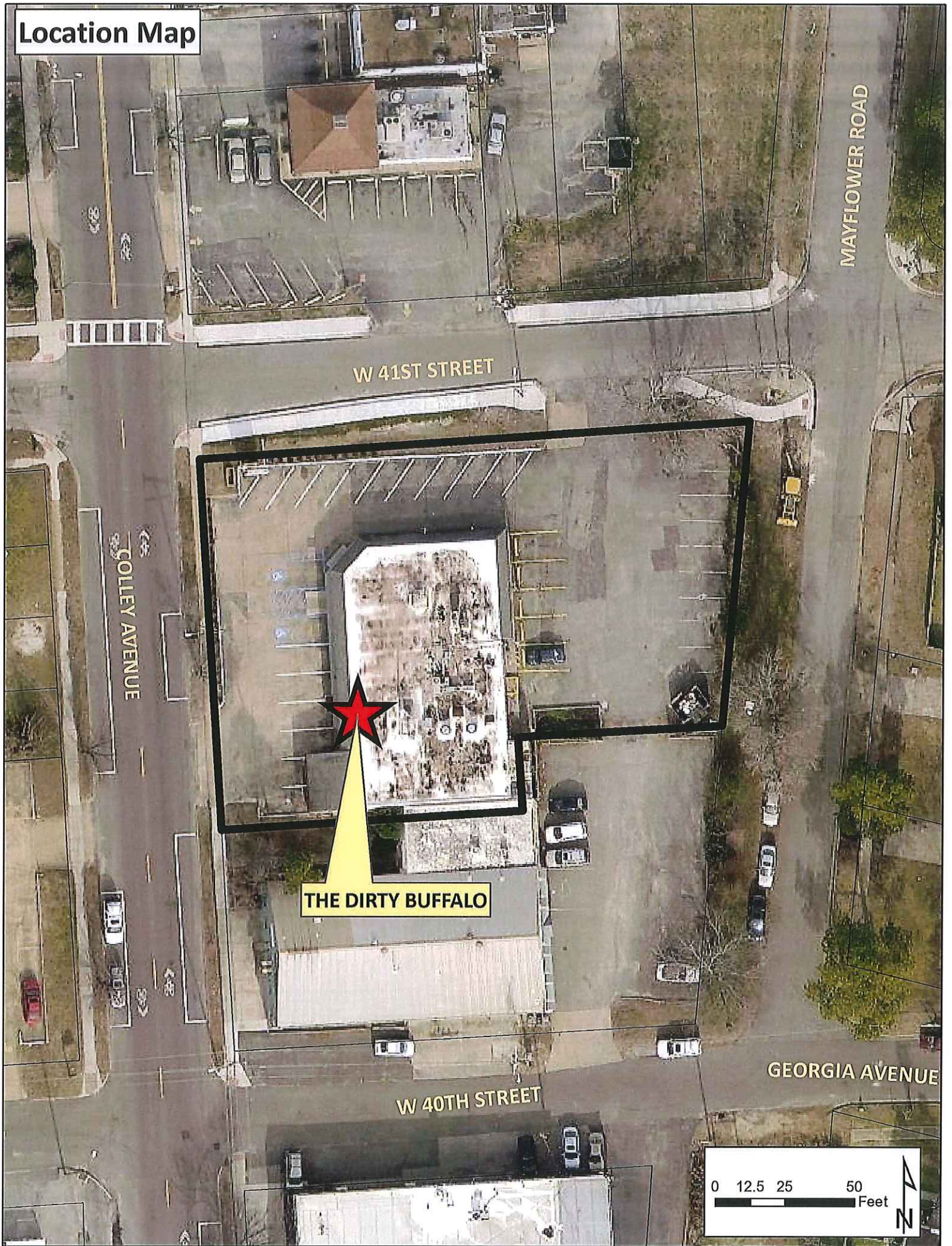
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (1 page)



Location Map



W 41ST STREET

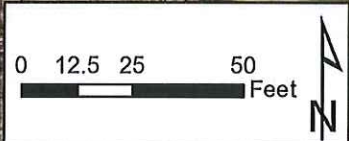
MAYFLOWER ROAD

COLLEY AVENUE

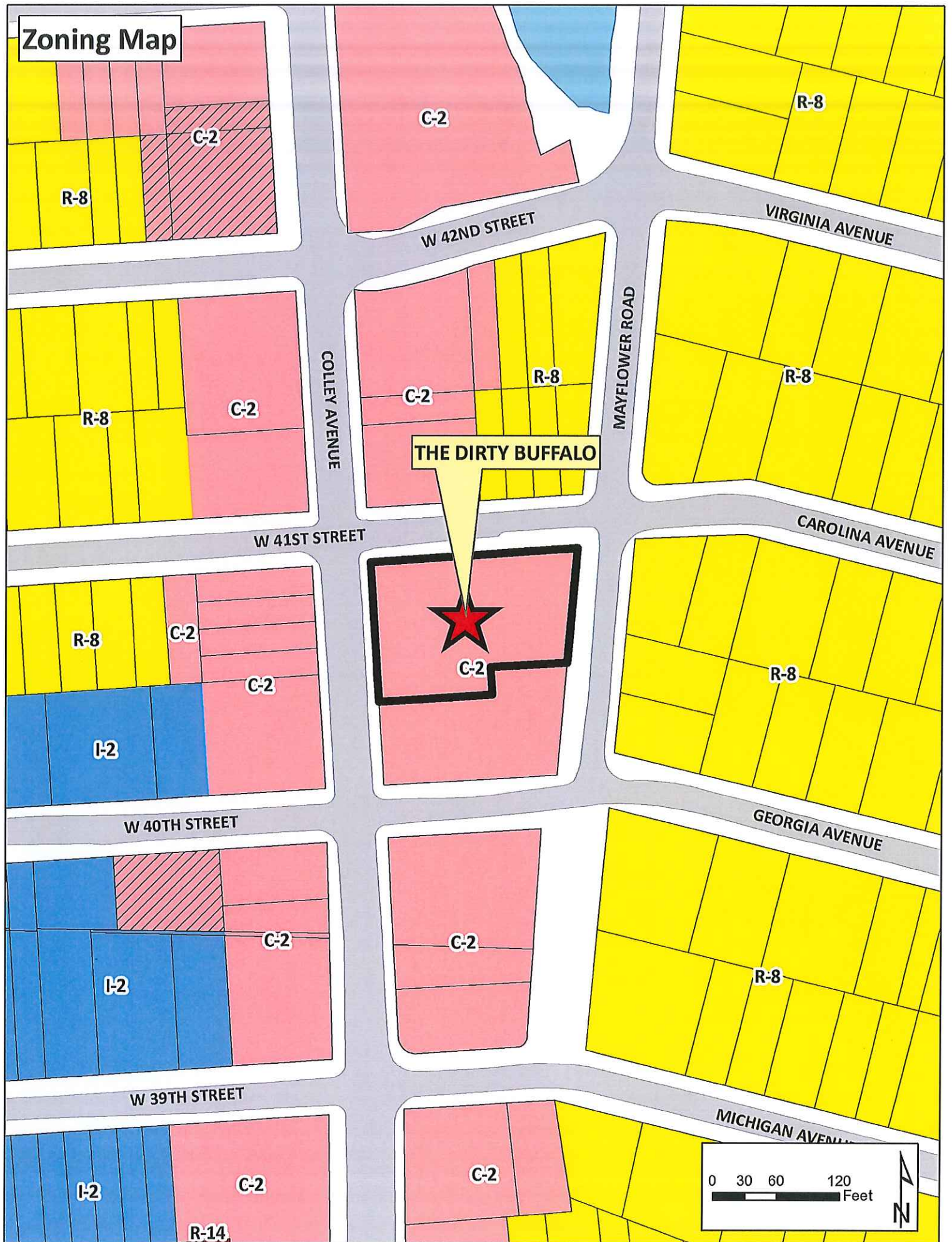
THE DIRTY BUFFALO

W 40TH STREET

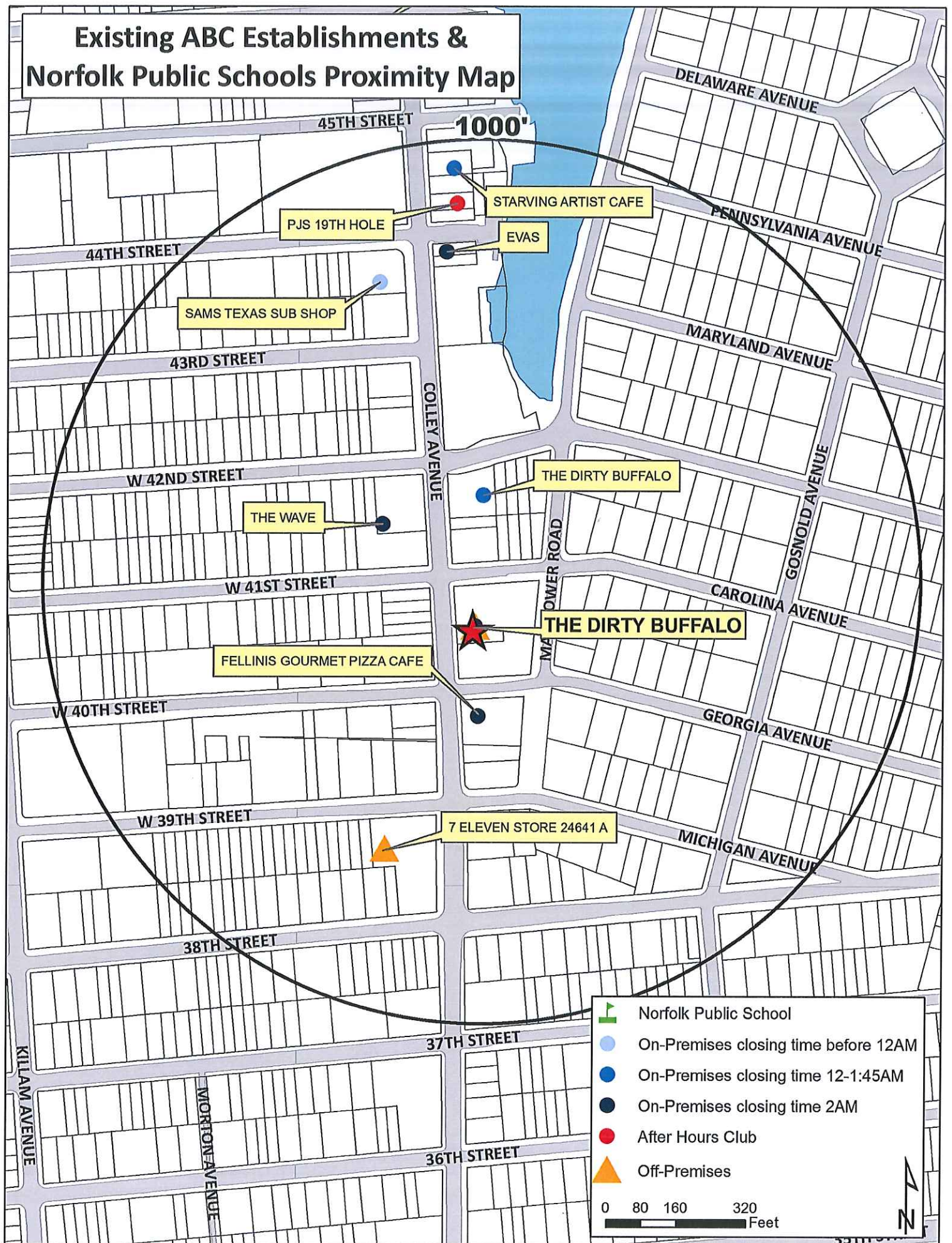
GEORGIA AVENUE



Zoning Map



Existing ABC Establishments & Norfolk Public Schools Proximity Map





**APPLICATION
ADULT USE SPECIAL EXCEPTION
EATING AND DRINKING ESTABLISHMENT
(Please print)**

Date 2/4/16

DESCRIPTION OF PROPERTY

Address 4012 Colley Avenue

Existing Use of Property Vacant

Proposed Use Restaurant

Current Building Square Footage 5392

Proposed Building Square Footage 5392

Trade Name of Business (if applicable) The Dirty Buffalo

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Gilbert (First) Russell (MI) K

Mailing address of applicant (Street/P.O. Box): 211 Sinclair St.

(City) Norfolk (State) VA (Zip Code) 23505

Daytime telephone number of applicant () 757-359-0614 Fax () N/A

E-mail address of applicant: thedirtybuffalo@gmail.com

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) Gilbert (First) Stephanie (MI) N

Mailing address of applicant (Street/P.O. Box): 211 Sinclair St.

(City) Norfolk (State) VA (Zip Code) 23505

Daytime telephone number of applicant () 757-628-5622 Fax () 757-628-5566

E-mail address of applicant: sgilbert@wilsav.com

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

Estate of James Boyce, Executive

3. Name of property owner: (Last) Simon (First) Sharon (MI) _____

Mailing address of property owner (Street/P.O. box): 1408 Beecher Court

(City) Virginia Beach (State) VA (Zip Code) 23456

Daytime telephone number of owner () 757-652-6867 email: sharonsimon@realestatetgip.com

CIVIC LEAGUE INFORMATION

Civic League contact: John Robertson, CPRV

Date(s) contacted: 1/28, 2/4

Ward/Super Ward information: Dr. Theresa Whibley

REQUIRED ATTACHMENTS

- Required application fee, **\$355.00** (if check, make payable to the City of Norfolk).
 - Application fee includes a non-refundable \$5 technology surcharge.
- One 8½ inch x 11 inch copy of a floor plan prepared by a registered design professional drawn to scale showing seats/tables, restroom facilities, bar, ingress and egress, standing room, outdoor dining and total maximum capacity (see attached example)
- One 8½ x 14 inch or 11 x 17 inch copy of a physical survey, drawn to scale and showing site conditions and improvements (including portions of the right-of-way to the curb line):
 - Existing and proposed building structures
 - Driveways
 - Parking
 - Landscaping
 - Property lines (see attached example)
- One 8 ½ x 14 inch or 11 x 17 inch copy of a conceptual site plan drawn to scale and showing all proposed site improvements, landscaping, drive aisles and parking with dimensions, and proposed changes to parcel/property lines (including lease lines) if applicable.
- Completed Exhibit A, Description of Operations (attached)

CERTIFICATION

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: Sharon Simón, Sign: Sharon Simón 12/4/2016
(Property Owner) (Date)
Executor of Estate of James M. Boyce

Print name: Russell Gilbert Sign: Russell Gilbert 2/3/16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Stephanie Gilbert Sign: Stephanie Gilbert 2/4/16
(Authorized Agent Signature) (Date)

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CERTIFICATION

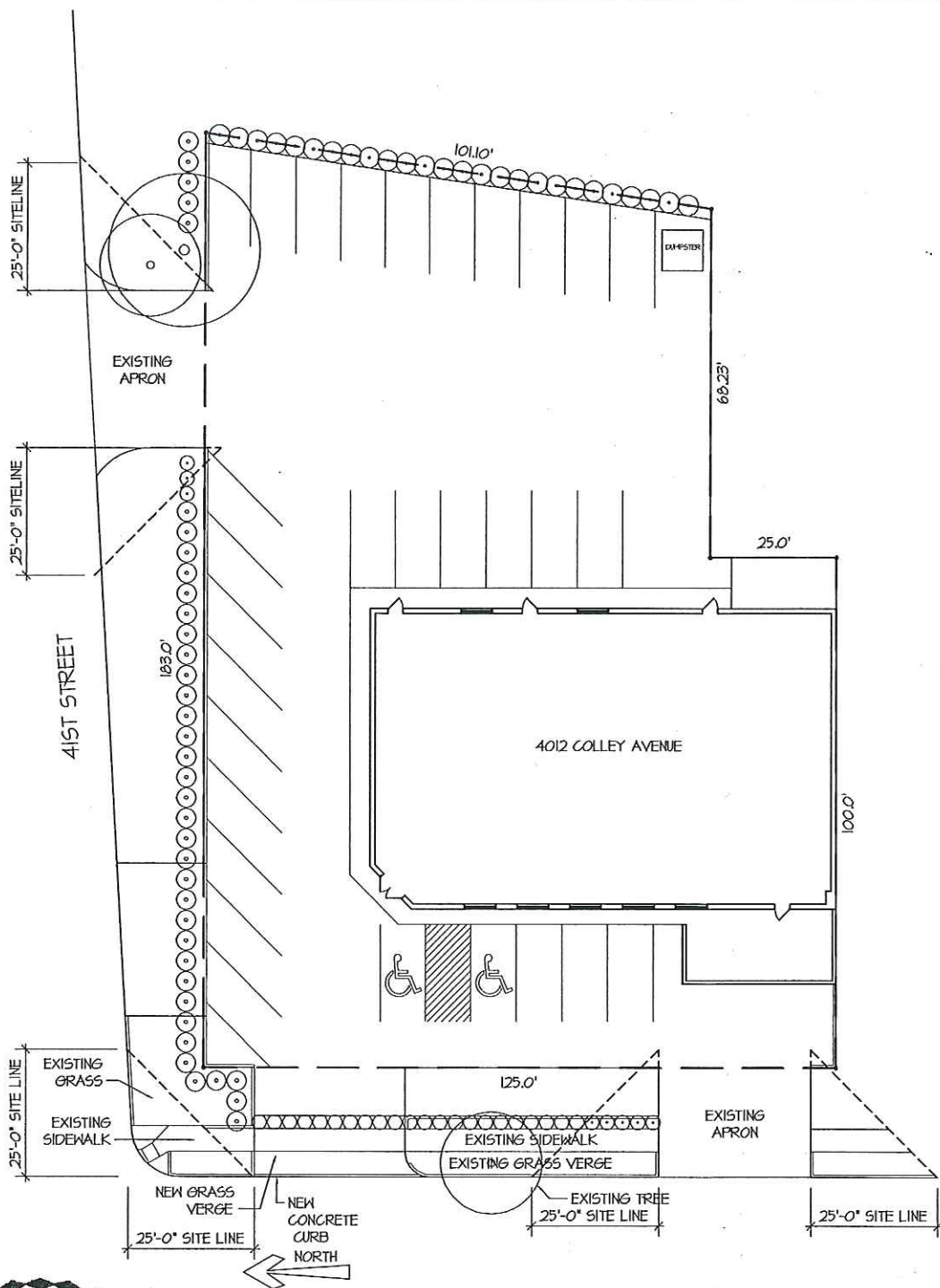
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Executor of Estate of James M. Boyce

Print name: Russell Gilbert Sign: Russell Gilbert 2/3/16
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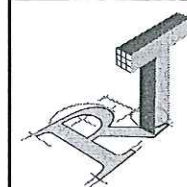
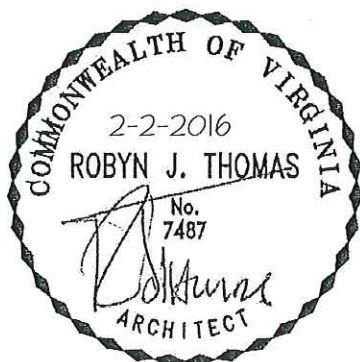
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(Authorized Agent Signature) (Date)



COLLEY AVENUE

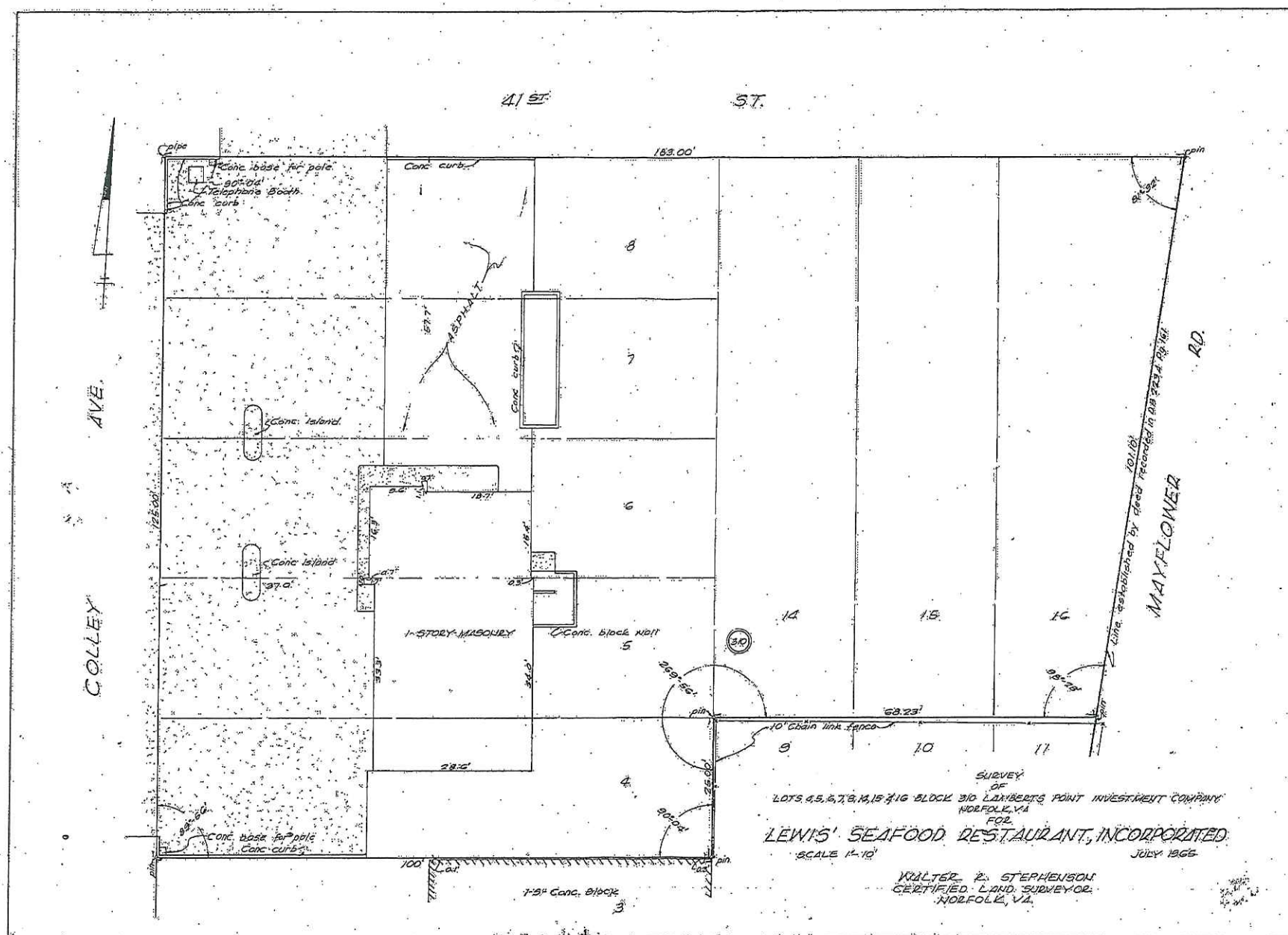
ARCHITECTURAL SITE PLAN: 4012 COLLEY AVE, NORFOLK, VA
1" = 30'-0"



ROBYN THOMAS
ARCHITECTURE

913 W. 21st Street, Suite C
Norfolk, VA 23517

Ofc: 757.622.7100
Fax: 757.640.1014



1232



**APPLICATION
SPECIAL EXCEPTION**

Special Exception for: Commercial Rec Center

Date of application: 2/5/14

DESCRIPTION OF PROPERTY

Property location: (Street Number) 4012 (Street Name) Colley Ave.

Existing Use of Property Vacant

Current Building Square Footage 5392

Proposed Use Restaurant with game room that includes
up to 12 video games

Proposed Square Footage 5392

Proposed Hours of Operation:

Weekday From 11 AM To 2 AM

Friday From 11 AM To 2 AM

Saturday From 11 AM To 2 AM

Sunday From 11 AM To 2 AM

Trade Name of Business (If applicable) The Dirty Buffalo

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

**Application
Special Exception
Page 2**

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Gilbert (First) Russell (MI) K

Mailing address of applicant (Street/P.O. Box): 211 Sinclair St.

(City) Norfolk (State) VA (Zip Code) 23505

Daytime telephone number of applicant () 757-359-0614 Fax () N/A

E-mail address of applicant: thedirtybuffalo@gmail.com

AUTHORIZED AGENT (if applicable)

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(City) Norfolk (State) VA (Zip Code) 23505

Daytime telephone number of applicant () 757-628-5622 Fax () _____

E-mail address of applicant: sgilbert@wilsavi.com

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

Estate of James Boyce, Executive
3. Name of property owner: (Last) Simon (First) Sharon (MI) _____

Mailing address of property owner (Street/P.O. box): 1408 Beecher Court

(City) Virginia Beach (State) VA (Zip Code) 23456

Daytime telephone number of owner () 757-652-6867 email: sharonsimon@realestatgrp.com

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

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(Revised January, 2015)

CIVIC LEAGUE INFORMATION

Civic League contact: John Robertson
Date(s) contacted: 1/28/16, 2/4/16
Ward/Super Ward information: Ward 2 / superward No 7

Dr. Theresa
Whibley

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Executor of Estate of James M. Boyce

Print name: Russell Gilbert Sign: Russell Gilbert
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Civic League contact: John Robertson Dr. Theresa Whibley
Date(s) contacted: 1/28/16, 2/4/16
Ward/Super Ward information: Ward 2 / Superward 7

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DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

Simons, Matthew

From: Straley, Matthew
Sent: Wednesday, February 10, 2016 11:03 AM
To: 'president@cprv.net'; 'ryderd@verizon.net'; 'highlandpark_cl@yahoo.com'
Cc: Whibley, Terry; Williams, Angelia M.; Howard, Oneiceia; Simons, Matthew
Subject: new Planning Commission applications - 4012 Colley Avenue
Attachments: DirtyBuffalo_eating_drinking.pdf; DirtyBuffalo_reccenter.pdf

Ms. Flaherty and Mr. Ryder,

Attached please find the following applications at 4012 Colley Avenue:

- a. Special exception to operate an eating and drinking establishment.
- b. Special exception to operate a recreation center, commercial.

The item is tentatively scheduled for the March 24, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Matt Simons* at (757) 664-4750, matthew.simons@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II


City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov



Simons, Matthew

From: HighlandParkCivicLeagueSecreta <highlandpark_cl@yahoo.com>
Sent: Friday, March 11, 2016 9:03 AM
To: Straley, Matthew; president@cprv.net; ryderd@verizon.net
Cc: Whibley, Terry; Williams, Angelia M.; Howard, Oneiceia; Simons, Matthew
Subject: Re: new Planning Commission applications - 4012 Colley Avenue

Mr. Straley,

On March 10, 2016, the Highland Park Civic League reviewed the Applications for Special Exception filed on behalf of The Dirty Buffalo. By majority vote, the civic league has no objection to the Applications. If you have any questions or need any additional information, please feel free to contact me at 757-619-2880 or Wendy Hazel at 757-717-5557.

Thank you for your consideration.

T. Dale Ryder, President Highland Park Civic League

From: "Straley, Matthew" <Matthew.Straley@norfolk.gov>
To: "president@cprv.net" <president@cprv.net>; "ryderd@verizon.net" <ryderd@verizon.net>; "highlandpark_cl@yahoo.com" <highlandpark_cl@yahoo.com>
Cc: "Whibley, Terry" <Theresa.Whibley@norfolk.gov>; "Williams, Angelia M." <angelia.williams@norfolk.gov>; "Howard, Oneiceia" <Oneiceia.Howard@norfolk.gov>; "Simons, Matthew" <Matthew.Simons@norfolk.gov>
Sent: Wednesday, February 10, 2016 11:03 AM
Subject: new Planning Commission applications - 4012 Colley Avenue

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Thank You.

Matthew Straley
GIS Technician II


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810 Union Street, Suite 508
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